

24. Accomplices and Co-Conspirator Witnesses Called by the Government

You have heard witnesses who testified that they were actually involved in planning and carrying out certain crimes with the defendant and who were co-conspirators in the Bonanno crime family enterprise. There has been a great deal said about these so-called accomplice and co-conspirator witnesses in the summations of counsel and about whether or not you should believe them.

The Government argues, as it is permitted to do, that it must take the witnesses as it finds them. It argues that only people who themselves take part in criminal activity have the knowledge required to show criminal behavior by others. For those very reasons, the law allows the use of accomplice and co-conspirator testimony. Indeed, it is the law in federal courts that the testimony of a single accomplice or co-conspirator may be enough in itself for conviction, if the jury finds that the testimony establishes guilt beyond a reasonable doubt.

However, it is also the case that accomplice and co-conspirator testimony is of such a nature that it must be scrutinized with great care and viewed with particular caution when you decide how much of that testimony to believe. I have given you some general considerations on credibility and I will not repeat them all here. Nor will I repeat all of the arguments made on both sides. However, let me say a few things that you may want to consider during your deliberations on the

subject of accomplice and co-conspirator witnesses.

You should ask yourselves whether these witnesses would benefit more by lying or by telling the truth. Was their testimony made up in any way because they believed or hoped that they would somehow receive favorable treatment by testifying falsely? Or did they believe that their interests would be best served by testifying truthfully? If you believe that the witness was motivated by hopes of personal gain, was the motivation one which would cause them to lie, or was it one which would cause them to tell the truth? Did this motivation color his testimony?

In sum, you should look at all of the evidence in deciding what credence and what weight, if any, you will want to give to the accomplice and co-conspirator witnesses.

25. Punishment of Accomplice and Cooperating Witnesses

You have heard testimony that cooperating witnesses in this case have been promised that if they provide substantial assistance to the government and testify